

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of Jamie Krenzke,
individually and doing business as
Kenzke Roofing

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above-entitled matter came on for a hearing before Administrative Law Judge Barbara L. Neilson on February 1, 2005, at 9:30 a.m. at the Office of Administrative Hearings in Minneapolis, Minnesota. Michael J. Tostengard, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of the Respondent, Jamie Krenzke, individually and doing business as Krenzke Roofing, 30975 Old Hickory Road, La Crescent, MN 55947. The OAH record closed after the scheduled hearing on February 1, 2005.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Kevin Murphy, Deputy Commissioner, Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101-2198, to ascertain the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUES

The issue presented in this case is whether the Respondent, Jamie Krenzke, individually and doing business as Krenzke Roofing, placed an advertisement in a newspaper to perform residential building contractor services without a license and in

violation of a Consent Cease and Desist Order between the Respondent and the Department of Commerce which was signed in February of 2002, in violation of Minn. Stat. § 326.84, subds. 1 and 1a and 326.91, subd. 1(5); and, if so, what, if any, penalty is appropriate.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges initiating this contested case proceeding was served on the Respondent, Jamie Krenzke, individually and doing business as Krenzke Roofing, via first class mail on September 28, 2004, at the following address: Jamie Krenzke, 3386 North Pinecreek Road, La Crescent, MN 55947.^[1]

2. The Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges set a prehearing conference for November 18, 2004, at 2:30 p.m.^[2] The Respondent and counsel for the Department both appeared at the prehearing conference on November 18, 2004. A schedule was established for the exchange of witness and exhibit lists by the parties and the hearing was scheduled for February 1, 2005.

3. On November 19, 2004, the Administrative Law Judge issued a First Prehearing Order setting forth the schedule for the exchange of witness and exhibit lists by the parties and confirming that the hearing would commence at 9:30 a.m. on February 1, 2005, at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota. The First Prehearing Order was initially served on the Respondent at 3386 N. Pinecreek Road, La Crescent, MN 55947. This mailing was returned to the Office of Administrative Hearings. The Office of Administrative Hearings contacted the Respondent by telephone and he provided his new address: 30975 Old Hickory Road, La Crescent, MN 55947. The First Prehearing Order was sent to the Respondent at his new address on December 3, 2004.

4. The Respondent did not make any request prior to the February 1, 2005, hearing for a continuance or any other relief. He did not appear at the February 1, 2005, hearing, or have any appearance made on his behalf.

5. Because the Respondent failed to appear at the hearing in this matter, he is in default.

6. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 326.91.

2. The Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges issued by the Department was proper and the Department has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The Respondent, having made no appearance at the hearing, and not requesting any continuance or relief, is in default. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges are hereby taken as true.

4. By offering services which would require licensure as a residential building contractor, the Respondent violated the 2002 Consent Cease and Desist Order and Minn. Stat. §§ 326.84, subds. 1 and 1a, and 326.91, subd. 1(5). The Respondent is subject to censure and/or civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6 - 7, and 326.91, subd. 1. The imposition of sanctions is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Commissioner of Commerce take appropriate disciplinary action against the Respondent, Jamie Krenzke, individually and doing business as Krenzke Roofing.

Dated: February 14, 2005

/s/ Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

Reported: Default.

^[1] Affidavit of Service by First Class Mail of Jean-Anne Gates attached to Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges.

^[2] Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charges, p. 1.